

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

----- X	
In re:	:
	:
BERNARD L. MADOFF INVESTMENT	:
SECURITIES LLC,	:
	:
Debtor.	:

PERTAINS TO THE FOLLOWING CASE:	:
	:
IRVING H. PICARD, Trustee for the Liquidation	:
of Bernard L. Madoff Investment Securities LLC,	:
	:
Plaintiff,	:
	:
-v-	:
	:
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:
ASCOT FUND LTD., GABRIEL CAPITAL	:
CORPORATION,	:
	:
Defendants.	:
----- X	

Adv. Proc. No. 08-01789 (SMB)
SIPA LIQUIDATION
(Substantively Consolidated)

Adv. Proc. No. 09-1182 (SMB)

**DECLARATION OF MARIEL R. BRONEN IN SUPPORT OF MOTION
IN LIMINE BY DEFENDANTS TO EXCLUDE TESTIMONY AND EXHIBITS
RELATED TO WHETHER INVESTORS WERE MISLED WITH RESPECT TO
GABRIEL CAPITAL, L.P. AND ARIEL FUND LTD.'S EXPOSURE TO BLMIS**

I, Mariel R. Bronen, declare as follows:

1. I am an associate at the law firm of Dechert LLP, counsel to Defendants J. Ezra Merkin and Gabriel Capital Corporation.
2. I make this Declaration to put before the Court certain documents related to Defendants' Motion *in limine* to exclude the proposed testimony and exhibits related to investors' supposedly being misled about Gabriel Capital, L.P.'s and Ariel Fund Ltd.'s investments in managed accounts with Bernard L. Madoff Investment Securities LLC.

3. Attached to this Declaration as Exhibit A is a copy of an excerpt from the transcript of the Summary Judgment Oral Argument in the above captioned case dated June 1, 2016.

4. Attached to this Declaration as Exhibit B is a copy of a Trial Order in *Picard v. Katz*, 11 Civ. 3605 (JSR), (S.D.N.Y. Mar. 14, 2012) ECF No. 177.

5. Attached to this Declaration as Exhibit C is a copy of a Memorandum Decision in *Picard v. Merkin*, Adv. Proc. No. 09-01182 (SMB), (Bankr. S.D.N.Y. Aug. 12, 2014) ECF No. 212.

6. Attached to this Declaration as Exhibit D is a copy of an excerpt from a hearing transcript from *SIPC v. Bernard L. Madoff Inv. Sec. LLC* (S.D.N.Y. Oct. 12, 2012) (Rakoff, J.), ECF No. 401.

7. Attached to this Declaration as Exhibit E is a copy of an article by Chris Kentouris, titled “Hedge Funds Bracing for Likely Disclosure Mandates,” from Securities Industry News, dated December 1, 2008.

8. Attached to this Declaration as Exhibit F is a copy of the Confidential Offering Memorandum of Ascot Partners, L.P. dated October 2006.

9. Attached to this Declaration as Exhibit G is a copy of an email from [REDACTED] [REDACTED] dated October 9, 2007.

10. Attached to this Declaration as Exhibit H is a copy of an email from Patrick Erne dated October 29, 2007.

11. Attached to this Declaration as Exhibit I is a copy of an email from J. Ezra Merkin dated March 15, 2004

12. Attached to this Declaration as Exhibit J is a copy of an excerpt from the deposition transcript of Joel Ehrenkranz dated March 20, 2014.

13. Attached to this Declaration as Exhibit K is a copy of an excerpt from the deposition transcript of Jason Orchard dated October 8, 2013.

14. Attached to this Declaration as Exhibit L is a copy of an excerpt from the deposition transcript of Tina Surh dated September 18, 2013.

Dated: New York, New York
April 7, 2017

/s/ Mariel R. Bronen

Mariel R. Bronen

16205304.1